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# HARVARD LAW REVIEW.

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THE next number of the REVIEW will appear in October. We are fortunate in being able to announce for that number articles by Professor William A. Keener, of the Law School, and Frederick Jessup Stimson, of New York.

AN important subject in its influence on legal education is the number of years of study required for the ordinary degree of A.B. Earlier in the century four years did not seem too short a time for this degree; for the age at which men entered college was much lower than the average at the present day. Professional study was also much slighter. A large proportion of lawyers studied solely in offices, and in the law schools which then existed the course was comparatively short. The times have changed. The number of studies required for admission to college has gradually increased, and the age at entrance has steadily risen, until now at Harvard the average age at entrance is nearly nineteen years. At the same time legal study has increased its demands. In the various law-schools of the country the ordinary course is two years, and here in Cambridge a third year has been added. Under these circumstances a fourth year in college seems unnecessary. It makes the college course out of proportion to the period of professional study that must follow the A.B., and brings into the law either men who feel it a necessity to enter practical work as soon as possible, or men who have omitted a college course altogether.

The number of students who try to finish the college course in three years is slowly increasing. Last year, at Cambridge, the Conference Committee, composed of certain professors and representatives chosen from the undergraduates, recommended that seniors be allowed to take courses in the law-school, such courses to count toward the degree of A.B. This recommendation has not been acted upon; and as the Conference Committee has ceased to exist, the matter has been dropped. It shows, however, in a slight way, the general drift of

feeling on the subject. Without venturing to give any opinion ourselves, we desire merely to point out the importance of this question; for it is safe to predict that, sooner or later, the relation between college and professional courses of study must be put upon a more satisfactory basis.

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APROPOS of Professor Ames' article in our last number, we find the doctrine of prior equities concisely stated more than a hundred years ago, in Germany, by the illustrious critic whom Goethe called the Achilles, and Heine the Arminius, of German literature:—

“*Nathan* : Who has no greater right to her than I  
Must prove at least an earlier.”

*Nathan the Wise*, II. 7.

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MR. J. W. MACK, a member of the present graduating class, has been recommended by the Academic Council for appointment to a fellowship, and will spend several years abroad in the study of the civil law. It is the first time, we believe, that a representative of the law school has asserted its right to share in the advantages furnished for the pursuit abroad of the higher branches of learning. The prompt recognition of that right is certainly gratifying. The fact that a student of the common law proposes to devote a number of years to the study of the civil law is a significant one in its bearing on legal education. It may be that the civil law has been too long neglected.

THE students of the Harvard Law School claim domiciles in twenty-eight different jurisdictions. If they practise in the same jurisdictions from which they come, the Massachusetts bar, already so largely made up of Law School bred men, will receive 82 additions. Ohio courts stand next, with a list of 15. New York will be satisfied with 13 out of the 180 now in the school, while Illinois will take 9. Five each will go to California, Maine, New Hampshire, Pennsylvania, and Rhode Island.

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THE Harvard Law School Association has issued a pamphlet of about a hundred pages, containing a report of the organization and of the first general meeting of the Association on Nov. 5, 1886. In addition to the list of officers and members, a full account is given of the exercises in Sanders Theatre, and of the after-dinner speeches, which were delivered in the Hemenway Gymnasium, on the occasion of the first public dinner of the Association. The frontispiece is an excellent heliotype of Austin Hall.

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THE well-known authority on railroads, Prof. Arthur T. Hadley of Yale, in his recent lecture in Cambridge on the Interstate Commerce bill, expressed himself strongly in favor of leaving the problems of railroad charges and management to work themselves out in the courts as questions arise from time to time. The result of a railroad law thus gradually evolved and perfected to meet the needs of the country would be less injurious to business, and would cause less derangement of economic machinery than any statute or series of statutes, however good. He said, however, now that the bill is passed, it should be given a fair trial and not thrown over too soon, simply because it causes losses in some quarters.

THE following law clubs have been carrying on work during the present year: Pow-Wow, Ames-Gray, Thayer, Austin (all with supreme and superior courts), Choate, and Langdell. The Choate Club is the Harvard Chapter of the Phi Delta Phi, a law-school fraternity with chapters in all the leading law schools of the country. The Langdell society is a new organization among the members of the third-year class, the primary object of which is to encourage legal essay work. It has also, as a side issue, conducted a series of jury trials. The total membership of the clubs, allowing for those members counted twice, is seventy-seven, a proportion of four-ninths of the students engaged in work outside of the regular courses.

THE Selden Society, of which we spoke in our last number, has issued a rough draft of a prospectus to be submitted to the Provisional Committee for approval. In it the announcement is made that the society "has been formed mainly for the purpose of collecting and editing in a convenient form materials for the development of English legal history. Vast stores of material of the most valuable kind, illustrative of the growth and the principles of the mediæval common law, lie buried in unindexed and uncalendared records of the realm at the Public Record Office, and in unpublished MSS. in public and private libraries, and one main object of this society will be to collect and publish selections from these records and manuscripts." The annual subscription to the society is one guinea, due on the first of January, for the year then commencing. Members have no further liability of any kind. Each subscriber will receive a copy of all the publications of the year. A subscription of twenty guineas is accepted in lieu of all annual subscriptions. Subscriptions in this country may be sent to Prof. James B. Thayer, Cambridge. In addition to the General Council of the Society in London, committees will be formed in America and in each of the British colonies.

It is gratifying to note that, almost simultaneously with the desire among the members of the English profession which gave birth to the Selden Society, the members of our faculty have taken steps to give the students an opportunity to gain an insight into the historical formation of the early common law. This term, for the first time in any law school of the country, an interesting and valuable course, which is concealed under the modest title of "Points in Legal History," is being given in our school. It is the result of years of careful study and diligent investigation in the sources of the common law. The course takes up the origin of the actions of tort and contract, with brief reference to the law of property, and the fusion of law and equity. The course is by no means the dry collection of isolated cases which the frequent mention of Bracton, Britton, and the Year Books might suggest. It gives a united historical account of the rise and development of the most common of the common-law actions. It offers an opportunity of instruction to the members of the school in a branch of the law of which the learned assembly at the formation of the Selden Society, as of one voice, declared themselves lamentably ignorant. It is, therefore, pleasant to find that, at this awakening to the importance of historical study which is gaining ground so rapidly in England, our school is already in the field, with the services of a professor whose information in this subject is the result of long and careful research.

ANOTHER protest against the present unsatisfactory state of the law as to expert witnesses has been recently made. The author is Mr. Clemens Herschel, a civil engineer, who attempts to interest scientific men in the matter by means of an essay contributed to the *Engineering News*, and continued in the numbers for April 9, 16, and 23. He states that as results of the present system of partisan experts, the best scientific men do not now appear on the stand in the rôle of experts, and that a limited and objectionable class of professional experts, or lawyers in scientific disguise, is being developed, who do not exercise "untrammelled the judicial functions of the mind." He advocates the introduction of the continental system of experts summoned by the court, and ridicules the "cant phrase" that this system is "contrary to the spirit and genius of our institutions," for the court is not bound by these opinions, and its functions are not encroached upon. He calls for legislation to make this class of witnesses, who give opinion-evidence, the "servants of the court," and to provide for the manner in which they, like masters in chancery, shall make their reports.

It may be added (for Mr. Herschel, not being a lawyer, has not ventured to assert it with certainty) that the system of summoning experts by the court, so far from being hostile to our institutions, has been, up to the present century, an established custom in common-law practice. Of later years it has not been frequently used. But as recently as 1877, this right of the court was asserted by Jessel, M. R. (6 Ch. D. 416.)

At the breaking out of the Revolutionary War, Isaac Royall, a wealthy gentleman of royalist opinions, left this country for England, where he died, in 1781. He did not forget the land of his birth, however; for, by his will, recorded at the probate office in Boston, he devised a certain portion of his estate to the Overseers and Corporation of Harvard College, "to be appropriated towards the endowing a professor of laws in the said college, or a professor of physic and anatomy, whichever the said Overseers and Corporation shall judge to be best for the benefit of the said college." The funds which the college received by this devise remained unappropriated until 1815, when the Hon. John Lowell, a member of the corporation, procured the establishment of a professorship of laws. In memory of its founder the chair was called the "Royall Professorship," — a name it has kept to the present day. As the income was insufficient for the support of a professor, the necessary amount was made up from the general funds of the university. The first professor to occupy the chair was the Hon. Isaac Parker, late Chief-Justice of Massachusetts. In 1817 the university founded another professorship. The Hon. Asahel Stearns was appointed the first professor. By the conditions of the professorship he was required to "open and keep a school in Cambridge." From this time the establishment of the Law School is dated. Chief-Justice Parker never resided in Cambridge, but, in the performance of his duties as professor, was accustomed to read a course of lectures every year, which was open to the senior class of the college, as well as to members of the school. The date of the founding of the Law School is, therefore, given as 1815-1817; the former marks the appointment of the first professor of law, and the latter marks the establishment of the first resident professorship.